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7

8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/21-14784

13 **ABE'S AUTO REPAIR CENTER,**
14 **ABRAHAM CHAKARIAN, SOLE**
15 **PROPRIETOR**
16 **10202 Topanga Cyn. Blvd.**
17 **Chatsworth, CA 91311**

ACCUSATION

18 **Automotive Dealer Registration No. ARD**
19 **277740**
20 **Smog Check, Station License No. RC 277740**

21 **and**

22 **ABRAHAM CHAKARIAN**
23 **10243 Topanga Cyn. Blvd.**
24 **Chatsworth, CA 91311**

25 **Smog Inspector License No. EO 639614**

26 Respondents.
27
28

1 **PARTIES**

2 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
3 the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs.

4 2. On or about September 4, 2014, the Bureau of Automotive Repair issued Automotive
5 Repair Dealer Registration Number ARD 277740 to Abraham Chakarian, dba Abe’s Auto Repair
6 Center (Respondent Abe’s Auto Repair). The Automotive Repair Dealer Registration was in full
7 force and effect at all times relevant to the charges brought herein and will expire on September
8 30, 2022, unless renewed.

9 3. On or about April 8, 2016, the Bureau of Automotive Repair issued Smog Check
10 Station License Number RC 277740 to Abraham Chakarian, dba Abe’s Auto Repair Center
11 (Respondent Abe’s Auto Repair). The Smog Check Station License was in full force and effect at
12 all times relevant to the charges brought herein and will expire on September 30, 2022, unless
13 renewed.

14 4. On or about August 29, 2016, the Bureau of Automotive Repair issued Smog Check
15 Inspector License No. EO 639614 to Abraham Chakarian (Respondent Chakarian). The Smog
16 Check Station License was in full force and effect at all times relevant to the charges brought
17 herein and will expire on March 31, 2024, unless renewed.

18 **JURISDICTION**

19 5. This Accusation is brought before the Director of the Department of Consumer
20 Affairs (Director) for the Bureau of Automotive Repair, under the authority of the following laws.

21 6. Section 477 of the Business and Professions Code provides, in pertinent part, that
22 “Board” includes “bureau,” “commission,” “committee,” “department,” “division,” “examining
23 committee,” “program,” and “agency.” “License” includes certificate, registration or other means
24 to engage in a business or profession regulated by the code.

25 7. Section 44002 of the Health and Safety Code provides, in pertinent part, that the
26 Director has all the powers and authority granted under the Automotive Repair Act for enforcing
27 the Motor Vehicle Inspection Program.

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1 by this chapter or Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the
2 Health and Safety Code constitutes perjury and is punishable as provided in the Penal Code.”

3 12. Section 44012 of the Health and Safety Code states:

4 “The test at the smog check stations shall be performed in accordance with procedures
5 prescribed by the department, pursuant to Section 44013, shall require, at a minimum, loaded
6 mode dynamometer testing in enhanced areas, and two-speed testing in all other program areas,
7 and shall ensure all of the following:

8 ...

9 (f) A visual or functional check is made of emission control devices specified by the
10 department, including the catalytic converter in those instances in which the department
11 determines it to be necessary to meet the findings of Section 44001. The visual or functional
12 check shall be performed in accordance with procedures prescribed by the department.”

13 13. Section 44015 of the Health and Safety Code states:

14 “...

15 (b) If a vehicle meets the requirements of Section 44012, a smog check station licensed to
16 issue certificates shall issue a certificate of compliance or a certificate of noncompliance.

17 14. Section 44032 of the Health and Safety Code states:

18 “No person shall perform, for compensation, tests or repairs of emission control devices or
19 systems of motor vehicles required by this chapter unless the person performing the test or repair
20 is a qualified smog check technician and the test or repair is performed at a licensed smog check
21 station. Qualified technicians shall perform tests of emission control devices and systems in
22 accordance with Section 44012.”

23 15. Section 44059 of the Health and Safety Code states:

24 “The willful making of any false statement or entry with regard to a material matter in any
25 oath, affidavit, certificate of compliance or noncompliance, or application form which is required
26 by this chapter or Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business
27 and Professions Code, constitutes perjury and is punishable as provided in the Penal Code.”

28 16. California Health and Safety Code section 44072.10, subdivision (c) states:

1 document to be false or misleading, or where the tendency or effect thereby would be to mislead
2 or deceive customers, prospective customers, or the public.”

3 **COST RECOVERY**

4 21. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
9 included in a stipulated settlement.

10 **DATA REVIEW**

11 22. On March 9, 2015, the Bureau implemented a policy change requiring the use of an
12 On-Board Diagnostic Inspection System (OIS) in testing of 2000 model year and newer gas
13 powered vehicles 14,000 Gross Vehicle Weight Rating (GVW) and under, and 1998 and newer
14 diesel powered vehicles 14,000 GVW and under. The OIS Bureau Test Data lists differences in
15 Vehicle Identification Numbers (VIN) for vehicles that have received smog inspections, in
16 addition to communication protocol (the language used to communicate) and Parameter ID (PID)
17 differences with vehicles that have been certified correctly that are the same make and model
18 vehicles.

19 23. A Bureau representative initiated an investigation in which he reviewed OIS test data
20 for Respondent Abe’s Auto Repair. The investigation revealed that the data related to certain
21 vehicles certified by Respondent Abe’s Auto Repair contained a pattern of unmistakable
22 discrepancies between the information transmitted during the inspections and documented
23 information known about the subject vehicles. Specifically, the representative compared the data
24 received from the certified vehicles to data from vehicles of the same year, make, and model and
25 determined that the data from seven of the certified vehicles contained two or more of the
26 following unmistakable discrepancies: (1) missing eVINs; (2) incorrect vehicle communication
27 protocols; and (3) incorrect PID counts. These documented discrepancies confirm that the
28 vehicles receiving smog certificates from Respondent Abe’s Auto Repair were fraudulently tested

1 during the smog inspection using the clean plugging method. Clean plugging refers to the use of
 2 another vehicle's properly functioning On Board Diagnostic, generation II, (OBD II) system, or
 3 another source, to generate passing diagnostic readings for the purpose of issuing fraudulent smog
 4 Certificates of Compliance to vehicles that are not in smog compliance or were not present for
 5 testing.

6 24. The following table illustrates the documented clean plugging activities of
 7 Respondents from August 16, 2021 through November 3, 2021.

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
1.	8/16/21	2001 Ford Excursion XLT VIN: 1FMNU40LX1ED82288	SE668774C	Respondent Chakarian (EO 639614)	Comm. Protocol: I914 (Expected: JPWM) PID Count: 20 (Expected: 18 or 20) eVIN: not reported 1FMNU40LX1E D82288
2.	8/27/21	2013 Nissan 370Z Base VIN: JN1AZ4EH1DM382895	SE668792C	Respondent Chakarian (EO 639614)	Comm. Protocol: ICAN29bt5 (Expected: ICAN11bt5) PID Count: 20 Expected: 46) eVIN: JN1AZ4EH1DM 382895 JN1AZ4EH1DM 382895
3.	9/13/21	2005 Ford GT VIN: 1FAFP90SX5Y400285	SG447349C	Respondent Chakarian (EO 639614)	Comm. Protocol: KWPF (Expected: JPWM)

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
					PID Count: 20 Expected: 23(0) eVIN: not reported Expected: 1FAFP90SX5Y4 00285
4.	10/8/21	2004 Jeep Grand Cherokee Laredo VIN: 1J4GW48N64C258946	IN404401C	Respondent Chakarian (EO 639614)	Comm. Protocol: ICAN29bt5 (Expected: JVPW) PID Count: 20 Expected: 20 3 eVIN: 1J4GW48N64C 258946 Not expected
5.	10/21/21	2007 Dodge Charger SE VIN: 2B3LA43R77H660474	IN404427C	Respondent Chakarian (EO 639614)	Comm. Protocol: ICAN29bt5 (Expected: ICAN11bt5) PID Count: 95 Expected: 43 eVIN: 2B3LA43R77H6 60474 2B3LA43R77H6 60474
6.	11/3/21	2012 Ferrari 458 Spider VIN: ZFF68NHAC0188766	SI786101C	Respondent Chakarian (EO 639614)	Comm. Protocol: ICAN29bt5 (Expected: ICAN11bt5) PID Count: 95

No.	Test Date	Vehicle Certified & VIN/Plate No.	Certificate No.	Technician	OIS Test Data Details
					Expected: 42 14 42 43 14 42 eVIN: ZFF68NHAC01 88766 ZFF68NHAC01 88766
7.	11/3/21	2002 Toyota Corolla CE VIN: 1NXBR12E02Z633361	SI786102C	Respondent Chakarian (EO 639614)	Comm. Protocol: ICAN29bt5 (Expected: I914) PID Count: 95 Expected: 16 eVIN: not reported not expected

FIRST CAUSE FOR DISCIPLINE

(Untrue or Misleading Statements)

(As to Automotive Repair Dealer Registration No. 277740)

25. Respondent Abe Auto Repair's Automotive Repair Dealer Registration is subject to disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized statements which Respondent knew or in the exercise of reasonable care should have known to be untrue or misleading.

26. Respondent Abe Auto Repair certified that the seven (7) vehicles identified in paragraph 23 above, had passed inspection and were in compliance with applicable laws and regulations. In fact, Respondent Abe Auto Repair conducted the inspections of the seven vehicles identified in paragraph 23 above, using clean-plugging methods in that it substituted or used a different vehicle(s), or another source, or failed to report the results of the vehicles identified during the OBD II functional tests in order to issue smog certificates of compliance for the vehicles. Respondent Abe Auto Repair did not test or inspect any of the seven vehicles as required by Health and Safety Code section 44012. Complainant incorporates by reference,

1 paragraphs 22 through 24, as if fully set forth herein.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Fraud)**

4 **(As to Automotive Repair Dealer Registration No. 277740)**

5 27. Respondent Abe Auto Repair's Automotive Repair Dealer Registration is subject to
6 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),
7 in that Respondent Abe Auto Repair committed acts that constitute fraud by issuing electronic
8 smog certificates of compliance for the seven vehicles identified in paragraph 24 above, without
9 performing bona fide inspections of the emission control devices and systems on the vehicles,
10 thereby depriving the People of the State of California of the protection afforded by the Motor
11 Vehicle Inspection Program. Complainant incorporates by reference, paragraphs 22 through 24,
12 as if fully set forth herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Material Violation of Automotive Repair Act)**

15 **(As to Automotive Repair Dealer Registration No. 277740)**

16 28. Respondent Abe Auto Repair's Automotive Repair Dealer Registration is subject to
17 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(6),
18 in that Respondent Abe Auto Repair failed in a material respect to comply with the provisions of
19 this chapter or regulations adopted pursuant to it when he issued electronic certificates of
20 compliance for the seven vehicles identified in paragraph 24 above, without performing bona fide
21 inspections of the emission control devices and systems on those vehicles, thereby depriving the
22 People of the State of California of the protection afforded by the Motor Vehicle Inspection
23 Program. Complainant incorporates by reference, paragraphs 22 through 24, as if fully set forth
24 herein.

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27 **FOURTH CAUSE FOR DISCIPLINE**

28 **(False Statements on a Certificate of Compliance)**

1 **(As to Automotive Repair Dealer Registration No. 277740)**

2 29. Respondent Abe Auto Repair’s Automotive Repair Dealer registration is subject to
3 discipline under BPC section 9889.22, in that Respondent made false statements with regard to a
4 material matter in a certificate of compliance when issuing electronic smog certificates of
5 compliance for the vehicles identified in paragraphs 24, above. Complainant incorporates by
6 reference, paragraphs 22 through 24, as if fully set forth herein.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Violations of the Motor Vehicle Inspection Program)**

9 **(As to Smog Check Station License No. RC 277740)**

10 30. Respondent Abe Auto Repair’s Smog Check Station License is subject to disciplinary
11 action pursuant to Health and Safety Code section 44072.2, subdivision (a), in that Respondent
12 Abe Auto Repair failed to comply with the following sections of that Code:

13 a. **Section 44012, subdivision (a):** Respondent Abe Auto Repair failed to ensure that
14 the emission control tests were in accordance with procedures prescribed by the department.

15 b. **Section 44012, subdivision (f):** Respondent Abe Auto Repair failed perform a visual
16 and/or functional check of required emission control devices.

17 c. **Section 44015, subdivision (b):** Respondent Abe Auto Repair issued electronic smog
18 certificates of compliance for the seven vehicles identified in paragraph 24 above, without
19 ensuring that the vehicles were properly tested and inspected to determine if they were in
20 compliance with Health and Safety Code section 44012.

21 d. **Section 44059:** Respondent Abe Auto Repair willfully made false entries in
22 certificates of compliance by certifying that the vehicles had been inspected when, in fact, they
23 had not.

24 Complainant incorporates by reference, paragraphs 22 through 24, as if fully set forth
25 herein.

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27 **SIXTH CAUSE FOR DISCIPLINE**

28 **(Failure to Comply with Regulations Pursuant**

1 **to the Motor Vehicle Inspection Program)**

2 **(As to Smog Check Station License No. RC 277740)**

3 31. Respondent Abe Auto Repair's Smog Check Station License is subject to disciplinary
4 action pursuant to Health and Safety Code section 44072.2, subdivision (c), in that Respondent
5 Fast Lane Smog failed to comply with provisions of California Code of Regulations, title 16, as
6 follows:

7 a. **Section 3340.35, subdivision (c):** Respondent Abe Auto Repair issued electronic
8 smog certificates of compliance for the seven vehicles identified in paragraph 24 above, even
9 though the vehicles had not been inspected in accordance with section 3340.42.

10 b. **Section 3373:** Respondent filled out an estimate, invoice, or work order, or record or
11 inserted therein any statement or information causing such document to be false or misleading, or
12 where the tendency or effect was to mislead or deceive customers, prospective customers, or the
13 public.

14 Complainant incorporates by reference, paragraphs 22 through 24, as if fully set forth
15 herein.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Fraud)**

18 **(As to Smog Check Station License No. RC. 277740)**

19 32. Respondent Abe Auto Repair's Smog Check Station License is subject to disciplinary
20 action pursuant to Health and Safety Code section 44072.2, subdivision (d) and 44072.10,
21 subdivision (c), in that Respondent Abe Auto Repair committed acts involving dishonesty, fraud,
22 or deceit whereby another was injured by issuing electronic certificates of compliance for those
23 vehicles without performing bona fide inspections of the emission control devices and systems on
24 the vehicles, thereby depriving the People of the State of California of the protection afforded by
25 the Motor Vehicle Inspection Program.

26 Complainant refers to, and by this reference incorporates, the allegations contained in
27 paragraph 22 through 24, as though set forth fully herein.

28 **EIGHTH CAUSE FOR DISCIPLINE**

1 above.

2 Complainant incorporates by reference, paragraphs 22 through 24, as if fully set forth
3 herein.

4 **TENTH CAUSE FOR DISCIPLINE**

5 **(False Entry on a Certificate of Compliance)**

6 **(As to Smog Check Inspector License No. EO 639614)**

7 35. Respondent Chakarian's Smog Check Inspector license is subject to discipline
8 pursuant to Bus. & Prof. Code section 9889.22, in that Respondent willfully made false
9 statements or entries with regard to a material matter in any oath, affidavit, certificate of
10 compliance or noncompliance.

11 36. Complainant refers to, and by this reference incorporates, the allegations contained in
12 paragraph 22 through 24, as though set forth fully herein.

13 **ELEVENTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 **(As to Smog Check Inspector License No. EO 639614)**

16 37. Respondent Chakarian's Smog Check Inspector license is subject to discipline
17 pursuant to Bus. & Prof. Code section 44072.2, subdivision (d) and 44072.10, subdivision (c), in
18 that Respondent committed acts involving dishonesty, fraud, or deceit whereby another was
19 injured by issuing electronic certificates of compliance for those vehicles without performing
20 bona fide inspections of the emission control devices and systems on the vehicles, thereby
21 depriving the People of the State of California of the protection afforded by the Motor Vehicle
22 Inspection Program.

23 Complainant refers to, and by this reference incorporates, the allegations contained in
24 paragraph 22 through 24, as though set forth fully herein.

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26 **OTHER MATTERS**

27 38. Pursuant to Business and Professions Code section 9884.7, subdivision (c), the
28 Director may suspend, revoke, or place on probation the registration for all places of business

1 operated in this state by Respondent Abe's Auto Repair, upon a finding that Respondent Abe's
2 auto Repair has, or is, engaged in a course of repeated and willful violations of the laws and
3 regulations pertaining to an automotive repair dealer.

4 39. Pursuant to Health and Safety Code section 44072.8, if Smog Check License No. RC
5 277740, issued to Respondent Abe's Auto Repair, is revoked or suspended following a hearing
6 under this article, any additional license issued under Chapter 5 of Part 5 of Division 26 of the
7 Health and Safety Code in the name of said licensee may be likewise revoked or suspended by the
8 Director.

9 40. Pursuant to Health and Safety Code section 44072.8, if Smog Check Inspector
10 License No. EO 639614, issued to Respondent Chakarian, is revoked or suspended following a
11 hearing under this article, any additional license issued under Chapter 5 of Part 5 of Division 26
12 of the Health and Safety Code in the name of said licensee may be likewise revoked or suspended
13 by the Director.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Director of the Department of Consumer Affairs issue a
17 decision:

- 18 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
19 277740, issued to Abraham Chakarian, dba Abe's Auto Repair Center;
- 20 2. Revoking or suspending Smog Check Station License Number RC 277740, issued to
21 Abraham Chakarian, dba Abe's Auto Repair Center;
- 22 3. Revoking or suspending Smog Check Inspector License Number EO 639614, issued
23 to Abraham Chakarian;
- 24 4. Revoking or suspending any and all licenses issued under the Motor Vehicle
25 Inspection Program (Health & Saf. Code sec. 44000, et seq.) in the name of Abraham Chakarian
26 pursuant to section 44072.8 of the Health and Safety Code;

1 5. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
2 Division 26 of the Health and Safety Code in the name of Abe’s Auto Repair Center or Abraham
3 Chakarian;

4 6. Ordering Abraham Chakarian and Abraham Chakarian to pay the Bureau of
5 Automotive Repair the reasonable costs of the investigation and enforcement of this case,
6 pursuant to Business and Professions Code section 125.3; and,

7 7. Taking such other and further action as deemed necessary and proper.

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DATED: As of Digital Signature Date

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PATRICK DORAIS
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant

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